

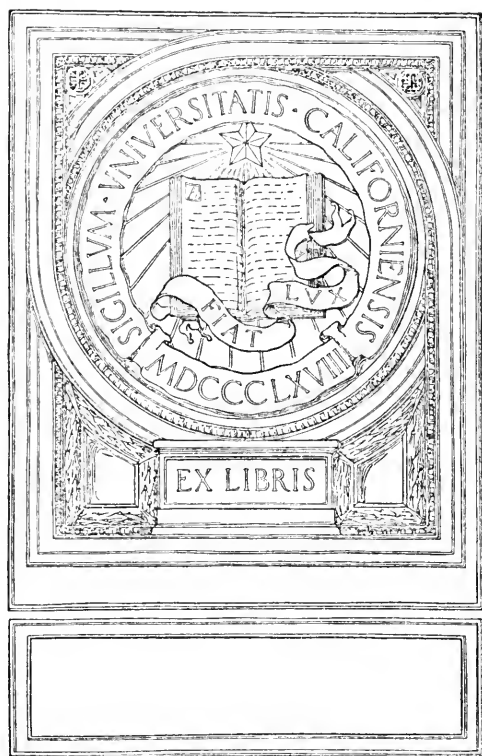
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Portland, Me. Charter

REPORT OF COMMISSIONERS
ON
Proposed Draft of New City Charter

FOR



City of Portland, Maine

1896
THE THURSTON PRINT
PORTLAND, ME.

UNIV. OF
CALIFORNIA

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To the Honorable the City Council of the City of Portland:—

The undersigned, who were appointed by vote of the City Council, Commissioners to prepare a draft of a new Charter, respectfully report the accompanying draft, with the following explanations:—

It has been the purpose of the Commissioners to make no changes in the present Charter, except in matters where the Commissioners were unanimously of the opinion that better results could be secured by the changes proposed. The most important changes are the following:—

1. A single board of fourteen Aldermen is established, instead of two boards as at present. This change is recommended by the Commissioners, because it assimilates the management of a municipal corporation to that of a business corporation, and is believed to be in accord with the best thought and practice in this matter. The adoption of two boards is an imitation of our national and state form of government, which in its legislative branch consists of two bodies, with an important distinction omitted in our present Charter, which is, that the two bodies shall be elected by different constituencies. Our present boards are elected by the same constituency, and form no real check upon each other. Upon important matters, the members of both boards meet together, and might as well, so far as all practical results are concerned, vote together. In addition to the above, the fact that the Board of Aldermen are the municipal officers of the city, and by a recent law are vested with the direction and control of all subordinate city officers, necessarily makes the Common Council an unimportant adjunct of our municipal government.

2. The Commission recommends that the time of holding the municipal elections be changed from the first Monday in March to the second Monday of December. This change is important in the interest of good business management, as it gives opportunity for a careful preparation of estimates and

TO THE

ALDERMEN

the passage of appropriation bills in season for necessary work to be commenced early in the spring, and not to be delayed, as often occurs in the present practice till late in June.

3. The Commission recommends that the Mayor be elected by a plurality, instead of a majority vote. All state officers are now elected in that way, and the requirement of a majority, as in our present Charter, is an anomaly. They also recommend that the term of office of both Mayor and Aldermen be for two years, one-half of the latter being elected annually. This change is in line with modern charters and secures continuity in municipal work.

4. The Commission recommends a return to the former method of electing the members of the School Committee at large, instead of on ward tickets. Experience has shown that the larger the constituency, the wider is the choice, and the greater is the probability of care in the selection of candidates for offices. There are many reasons why in the selection of members of the School Board, the choice should not be limited by ward lines.

5. The Commission recommends that the Board of Overseers of the Poor shall be reduced to seven members, one of whom shall be elected from each of the wards. The reduction of the Board from fifteen to seven members, is believed to be in the direction of greater efficiency, and the election by wards may obviate some existing disadvantages.

6. The proposed draft enlarges the power of the Mayor in the appointment of executive officers, and gives him the power to appoint the City Marshal, the Commissioner of Public Works, the Fire Commissioner, and the Commissioner of Cemeteries and Public Grounds, without confirmation. This change is believed to be in the interest of better administration of public affairs, and is in line with modern charters. Divided responsibility does not give good results in an executive office. The Mayor, as the chief executive officer of the city, should have power commensurate with his responsibility, in the selection of the heads of important executive departments.

7. The Mayor is given the power to remove all officers appointed by him, for such cause as he shall deem sufficient, and shall assign in writing in his order for removal, which is to be filed with the City Clerk and to be open to public inspection. The power of removal is as important as the power of appointment, if harmonious relations are to exist between the chief executive and the heads of executive departments, and weighty reasons only would lead to such removal among the Mayor's own appointees.

8. The Mayor is given the right to veto *items* in appropriation bills, without being obliged, as at present, to veto the whole bill. The propriety of this change is obvious, and needs no detailed explanation.

9. In the Police Department, the Deputy Marshals are to be appointed by promotion from the Patrolmen, and like the latter to hold office during good behavior. All members of the force except the City Marshal (who is removable by the Mayor at pleasure as at present), are to hold office during good behavior, but subject to removal by the Mayor for any cause he may deem sufficient and shall assign in writing in his order for removal, which is to be filed with the City Clerk and to be open to public inspection. The Commission believes that the Mayor should have the power of removal of any Police Officer when he is satisfied that the best interests of the Department require it, as he is made responsible for the efficiency and discipline of the Department. Experience has shown that the discipline of the Police Department has been unfavorably affected by the difficulty of removal of inefficient members under the present law. With the present safeguards against the creation of vacancies for political purposes afforded by the law requiring appointments to be made from a list certified by the Police Examining Board, the danger of arbitrary removals is greatly limited. No good reason has suggested itself why the Deputy Marshals should not have the same tenure of office as that of the men under them. The present system has not tended to maintain the discipline of the Department. The Deputy Marshals are looked upon as temporary men. Pro-

motion from the ranks will tend to stimulate individual effort and ambition.

10. The Fire Department is put in charge of a Fire Commissioner, who shall appoint the Chief Engineer and Assistants. This change is in line with modern thought and experience, which point to the conclusion that the efficiency of a Department is increased by placing it under a single responsible head.

11. The Department of Cemeteries and Public Grounds, not including, however, Evergreen Cemetery, is placed in charge of a single Commissioner, for the reason above stated. If it is desirable to make the change in Evergreen Cemetery, it may be done on application to the Legislature.

12. No change is made in the law relating to sidewalks and to drains and sewers, the present law being deemed satisfactory.

The Commissioners have examined carefully various schemes of proportionate representation, and while they recognize some advantages which attach to them and may lead to the ultimate adoption of some matured plan, they do not believe that the time is ripe for so radical a change, and have not, therefore, attempted to deal with it in this report.

CHARLES F. LIBBY.

EDWARD B. WINSLOW.

WILFORD G. CHAPMAN.

DRAFT OF PROPOSED CITY CHARTER.

SECT. 1. The inhabitants of Portland shall continue to be a body politic and corporate by the name of the City of Portland, and as such, shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises, and shall be subject to all the duties and obligations provided for herein or otherwise now appertaining to, or incumbent upon, said city, or the inhabitants or municipal authorities thereof; and may ordain reasonable by-laws, and regulations for municipal purposes, and impose penalties for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the Board of Aldermen may appoint.

Corporate Powers.

SECT. 2. The administration of all the fiscal, prudential, and municipal affairs of said city with the government thereof, shall be vested in the Mayor, as the chief executive officer, and a council of fourteen, to be called the Board of Aldermen, all of whom shall be inhabitants of said city, and shall be sworn or affirmed in the form prescribed by the Constitution of the State for state officers.

Government

SECT. 3. The city shall remain divided into seven wards as they now exist, and it shall be the duty of the Board of Aldermen, not oftener than once in ten years, to revise, and if it be needful, to alter such wards, in such manner as now provided by law, as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a Warden and Clerk, who shall hold their offices for one year, from the Monday following their election, and until others shall have been chosen and qualified in their places. Said Warden and Clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace; and a certificate of such oaths or affirmations having been administered shall be entered by the

Wards.

Warden and Clerk.

Clerk on the records of the ward. The Warden shall preside at all ward meetings, with the powers of moderators of town meetings. If at any meeting the Warden shall not be present, or shall refuse to preside, the Clerk of such ward shall call the meeting to order and preside until a Warden *pro tempore* shall be chosen. If both are absent, or shall refuse to act, a Warden and Clerk *pro tempore* shall be chosen. The Clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office, all such records, together with all other documents and papers held by him in said capacity. The voters of each ward may choose two persons to assist the Warden in receiving, sorting, and counting the votes at all elections.

Island Wards.

SECT. 4. The several islands within the City of Portland, so far constitute two separate wards as to entitle the voters of each of said wards to choose a Warden, Ward Clerk, and one Constable, who shall be residents of said islands and of their respective wards. The Warden and Ward Clerk shall be sworn or affirmed to the faithful performance of their duties and shall hold office for one year from the Monday following their election and until others shall have been chosen and qualified in their places. The first of said wards comprises Long Island, Crotch Island, Hope Island, Jewell's Island, and Little Chebeague Island, or such parts of said islands as are within the City of Portland, and the ward meetings of said first ward shall be held on Long Island. The second of said wards comprises the remaining islands within the City of Portland, and the ward meetings of said second ward shall be held on Peak's Island. The electors of each of said wards may meet as provided in section forty-one of chapter four of Revised Statutes, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

Said Warden shall preside impartially at said meetings, receive the votes of all electors present, sort, count, and declare them in open meeting and in presence of the Clerk, who shall make a list of the persons voted for with the number of votes

for each person against his name, and the offices respectively, and in open ward meeting and in presence of the Warden, shall make a fair record thereof; a fair copy of this list shall be attested by the Warden and Clerk, sealed up in open meeting, and delivered to the Clerk of ward number one in Portland within eighteen hours after closing the polls, and the votes thus thrown shall belong to the last mentioned ward.

SECT. 5. The Ward Clerk of each ward, within twenty-four hours after any election, shall deliver to the persons elected, in said ward, certificates of their election, and shall forthwith deliver to the City Clerk a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the City Clerk on the city records. If the choice of any such officers is not effected on that day, the meeting shall be adjourned to another day (not more than two days thereafter), to complete such election, and may so adjourn from time to time, until the election is complete. The Board of Aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected Mayor by a plurality of the votes given in all the wards, to be notified in writing of his election. But if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said Board shall issue their warrants for another election; and in case the citizens shall fail on second ballot to elect a Mayor, the Board of Aldermen in convention shall, from the four highest candidates voted for at the second election and returned, elect a Mayor for the ensuing term of two years; and in case of a vacancy in the office of Mayor by death, resignation, or otherwise, if such vacancy occurs before the last six months of said term, it shall be filled for the remainder of said term by a new election in the manner hereinbefore provided for the choice of said officer. If a vacancy occurs in the last six months of said term, the Chairman of the Board of Aldermen shall act as Mayor for the unexpired term, but shall not have the veto power.

Duties of
Ward Clerk.

Ward Meetings.

SECT. 6. All ward meetings shall be notified and called by warrant from the Mayor and Aldermen, in the manner prescribed by law for notifying and calling town meetings by the selectmen of towns.

Municipal Election.

SECT. 7. The municipal election shall take place annually on the second Monday of December, and the municipal year shall begin at ten o'clock in the morning, on the first Monday of January next following, and continue until ten o'clock in the morning of the first Monday of January next following.

Election of City Officers.

SECT. 8. At said municipal election the inhabitants of the city, voting in their respective wards, shall give in their votes by ballot for Mayor and members of the Superintending School Committee, and, in each ward, for members of the Board of Aldermen, or such of them as are to be elected, members of the Board of Overseers of the Poor, or such of them as are to be elected, a Warden and Clerk and two Constables for such ward. The person receiving the highest number of votes for any of said offices shall be deemed and declared to be elected to such office, and whenever two or more persons are to be elected to the same office, the several persons up to the number required to be chosen, receiving the highest number of votes, shall be deemed and declared to be elected. Members of the Board of Aldermen, members of the Board of Overseers of the Poor, the Warden, Ward Clerk, and Constables, shall, when elected, be residents of the wards electing them. All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal after their election out of their respective wards into any other wards in the city ; but they shall not be so held after they have taken up their permanent residence out of the city.

General Meetings.

SECT. 9. General meetings of the citizens qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the Constitution ; and such meeting shall be called by the Mayor and Aldermen

upon requisition of sixty qualified voters. The City Clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

SECT. 10. The qualified voters of said city shall, at the first annual election held under this act, give in their votes in their respective wards for one able and discreet person, being an inhabitant of the city, to be Mayor for the term of two years from the first Monday in January following his election, and until his successor is chosen and qualified. At said first municipal election held under this act, two members of the Board of Aldermen from each ward shall be elected by and from the voters of each ward, one to serve for the term of one year, and one to serve for the term of two years, beginning with the first Monday in January next ensuing, and thereafter one member of the Board of Aldermen from each ward shall be elected by and from the voters of each ward, at each annual municipal election to serve for the term of two years, beginning with the first Monday in January next ensuing. The qualified voters of each ward shall also elect at each annual election a Warden, Ward Clerk and two Constables, all to serve for the term of one year, beginning with the Monday following their election and until their successors are elected. Vacancies for an unexpired term in the Board of Aldermen may be filled at any election in the same manner that new members are elected.

Election
of Mayor.

Election of
Aldermen.

SECT. 11. At the first annual election held under this act the qualified voters of said city shall give in their votes for seven members of the School Committee, four of whom shall serve for the term of two years, and three for the term of one year, beginning with the first Monday in January next ensuing, and thereafter at the municipal election for each year the qualified voters of said city shall elect such a number of members of the School Committee as shall be necessary to fill the places of those whose terms of office shall expire in that year, to serve for the term of two years beginning with the first Monday in January then next ensuing. Vacancies for an unexpired term may be filled at any election in the same manner that new members are elected.

Election
of School
Committee.

Election of
Overseers
of the Poor.

SECT. 12. The Board of Overseers of the Poor of the City of Portland shall consist of seven persons. At the first annual election under this act a member of said board shall be elected in each ward, who shall be a resident of the ward in which he is elected; those elected in wards one, two, five and six to serve for the term of two years and those elected in wards three, four and seven to serve for the term of one year beginning with the first Monday of January following their election, and until their successors are elected and qualified; and thereafter at each annual election such a number of overseers shall be elected to serve for the term of two years, beginning with the Monday following their election, as shall be necessary to fill the places of those whose term of office shall expire in that year.

SECT. 13. In case of a vacancy in said Board of Overseers of the Poor, the Board of Aldermen shall elect by ballot, some person, resident in the ward in which the vacancy occurred, to hold office until the next annual election, when the unexpired term, if any, shall be filled as provided in section twelve of this act.

Powers of the
Mayor.

SECT. 14. The Mayor shall be the chief executive officer of the corporation of the City of Portland; shall be vigilant and active at all times in causing the laws for the government of the city to be duly executed and put in force; shall from time to time communicate to the Board of Aldermen such information and recommend such measures as the interests of the city may require; shall preside at all meetings of the Board of Aldermen but shall have a casting vote only; shall be compensated for his services by a salary to be fixed by the Board of Aldermen, payable at stated periods and shall receive therefor no other compensation, which salary, however, shall not be increased or diminished during his term of office; shall appoint the following named officers for the terms hereinafter specified, beginning with the first day of February in the year of appointment and until their successors are appointed (or confirmed where confirmation is required) viz.: — a City Marshal for the term of one year, a Commissioner of Public Works, a Fire Commissioner, and

a Commissioner of Cemeteries and Public Grounds, for the term of three years each, all without confirmation, and the following for the term of three years subject to confirmation by the Board of Aldermen; a Board of Health to consist of three members, one to be appointed each year for said term; a Police and Fire Department Examining Board to consist of three members one to be appointed each year for said term, who shall exercise the powers conferred upon the Police Examining Board of the City of Portland by an act entitled "An Act regulating the appointment of members of the Police Force of the City of Portland, approved March 4, 1885, and acts additional thereto and amendatory thereof; a Board of Trustees of Evergreen Cemetery to consist of three members one to be appointed each year for said term; a Board of Back Cove and Fore River Commissioners to consist of three members one to be appointed each year for said term; and a Board of Water Commissioners to consist of three members one to be appointed each year for said term, who shall exercise the powers conferred upon said Boards by law.

The Mayor shall appoint, with the consent of the Board of Aldermen, all other officers required for the government of said city for whose appointment no other method is provided by city ordinance or the laws of the state, and not provided for by this act; and shall appoint, in the same manner in which the original appointment is made, an officer to fill any vacancy occurring in any of the aforesaid offices to serve for the remainder of an unexpired term. All officers appointed by the Mayor shall be citizens of Portland.

SECT. 15. No contract made by any department, commissioner or board or authorized by any order, ordinance or resolution of the Board of Aldermen in the construction of a new, or in the structural change of, any building, or in any matter in which the amount involved exceeds five hundred dollars, shall be in force unless, and until, approved by the Mayor.

SECT. 16. The Mayor may remove any officer, commissioner, or member of a Board, appointed by the Mayor as aforesaid, for such cause as he shall deem sufficient, and shall assign in writing in his order for removal; and said order for removal

Removal of
Officers.

shall be filed with the City Clerk and be open to public inspection.

Organization
of the Board
of Aldermen.

SECT. 17. The Mayor, or Mayor elect, the Aldermen, and the Aldermen elect, shall on the first Monday of January, at ten o'clock in the forenoon, meet in convention, when the oath or affirmation required by the second section of this act shall be administered to the Mayor, if newly elected, and the Aldermen elect, by the City Clerk or any justice of the peace. The Board of Aldermen shall, by ordinance, determine the time of holding stated or regular meetings of the Board, and shall also, in like manner, determine the manner of calling special meetings, and the person by whom they shall be called; but until otherwise provided by ordinance, special meetings shall be called by the Mayor by causing a notification to be left at the usual residence, or place of business, of each member of the Board. A majority of all the members of the Board of Aldermen shall constitute a quorum for the transaction of business, but a less number may meet and adjourn from time to time.

Chairman of
the Board of
Aldermen.

SECT. 18. After the qualification of the members of the Board of Mayor and Aldermen newly elected, said Board, the Mayor presiding, shall proceed to choose a permanent Chairman for the ensuing municipal year who, in the absence of the Mayor, shall preside at all meetings of the Board, and in case of any vacancy in the office of Mayor, he shall exercise all the powers and perform all the duties of the office so long as such a vacancy shall remain; he shall continue to have a vote in the Board, but shall not have the veto power. The Board of Aldermen, in the absence of the Mayor and permanent Chairman, shall choose a President *pro tempore*, who shall exercise the powers of a permanent Chairman.

Veto Power of
the Mayor.

SECT. 19. Every ordinance, order, resolution, or vote passed by the Board of Aldermen, except in case of election of officers by the Board of Aldermen in which he shall have a casting vote only, and excepting rules and orders of a parliamentary character, shall be presented to the Mayor, and if he approve he shall sign it; if not, he shall return it with his objections to

the Board of Aldermen which shall enter the objections at large upon its records and proceed to reconsider it. If after such reconsideration, two-thirds of the Board shall agree to pass it, it shall have the same effect as if signed by the Mayor. If the ordinance, order, resolution, or vote shall not be returned by the Mayor at the next stated meeting of the Board, it shall have the same effect as if he had signed it.

SECT. 20. If any ordinance, order, resolution, or vote passed by the Board involving the raising, appropriation, or expenditure of money is presented to the Mayor, if he approves of a part and does not approve of a part of the sums or items thereof, he shall so indicate thereon and thereupon the sums and items so approved shall be in force, from the date of said approval, and he shall return the same with his objections to the sums or items not approved by him to the Board at the next stated meeting which shall enter the objections at large upon its records and proceed to reconsider the sums or items not approved. If after such reconsideration, two-thirds of the Board shall agree to pass the sums or items not approved, or any of them, said sums and items shall be in force as if he had approved. If the Mayor shall disapprove a part of the sums or items of any such bill and shall fail to approve or disapprove a part, on or before the next stated meeting, the sums which he fails to approve or disapprove shall be in force as if he had approved.

SECT. 21. The Mayor may, on public occasions, by his order, forbid the passing, temporarily, of horses, carriages, or other vehicles, over or through such streets or ways in said city as he may deem expedient.

SECT. 22. The Board of Aldermen shall have and exercise all the powers now vested in the City of Portland, or the inhabitants thereof as a municipal corporation, or in the City Council of the City of Portland, or either branch thereof, except as modified by this act; shall be the judge of the election and qualification of its members; may establish, subject to the provisions of this act, by ordinance such departments in charge of such officers to be appointed by the Mayor and Aldermen as may

Powers of the
Board of
Aldermen.

be necessary or desirable for the proper government and administration of the affairs of said city; shall have the power of confirmation or rejection of all officers appointed by the Mayor, except in cases where by this act authority to appoint without confirmation has been given to the Mayor; shall annually, in the month of January, elect by ballot the City Clerk, City Treasurer, City Auditor, City Messenger, and such other officers as are required to be elected by the ordinances of said city or by the laws of the state not inconsistent with the provisions of this act, also a Board of three Assessors, one for one year, one for two years and one for three years, and thereafter one to be elected each year for the term of three years, an Assistant Assessor for each ward, to serve for the term of one year from the first day of February then next ensuing and until their successors are elected and qualified, who shall perform their duties as directed by the Board of Assessors. Vacancies may be filled for any unexpired term.

SECT. 23. The Board of Aldermen, in behalf of the city, may offer rewards for the prevention of crimes or detection of criminals. They may remove all sunken wrecks in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may at the expense of the city, cause its harbor to be kept open and unobstructed by ice. They may also require all sailboats not under register or license, kept for hire in said harbor, to be examined and licensed for that purpose, and to be furnished with air-tight compartments; and may establish such regulations respecting such boats as they may deem expedient. They may also make and enforce by penalties, regulations respecting the enclosure of lots abutting on any street or way in the city; which may for want of such enclosure be dangerous to the public; and after notice to the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may appropriate money for celebration of the anniversary of our national independence and other public celebrations.

SECT. 24. The Aldermen shall not be entitled to receive any salary or other compensation during the term for which they are elected, nor be eligible to any office of profit or emolument, during said term, the salary of which is payable by the city; and all Departments, Boards, Officers, and Committees, acting under the authority of the city, and entrusted with the expenditures of public money, shall expend the same for no other purpose than that for which it is appropriated, and shall be accountable therefor to the city, in such manner as the Board of Aldermen may direct.

SECT. 25. All bills, accounts and vouchers of all Departments, Commissions and Boards charged with the expenditure of money appropriated by the Board of Alderman, including all bills, accounts, and vouchers of the School Committee and Overseers of the Poor, shall be audited and examined in such manner as the Board of Aldermen shall by ordinance determine.

SECT. 26. No money shall be paid out of the city treasury except on orders drawn and signed by the Mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the Board of Aldermen; and the Board of Aldermen shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons entrusted with the receipt, custody, or disbursement of money; they shall have the care and superintendence of the city buildings and the custody and management of all city property, with the power to let or sell what may be legally let or sold, and to purchase and take in the name of the city, real and personal property for municipal purposes to an amount not exceeding two hundred thousand dollars in addition to that now held by the city. And shall as often as once a year cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of the city property.

SECT. 27. The Mayor and Aldermen of the City of Portland and any Committee thereof, when authorized by them, shall have power to send for persons and papers, and compel the

Public
Money.

Witnesses
before the
Board.

attendance of witnesses at any meeting of said Board of Mayor and Aldermen at which a hearing is had in any matter of inquiry regarding alleged dereliction of duty of any city officer or any person in the employ of said city, or in any hearing on any municipal matter. The Mayor and the Chairman of any Committee, when authorized by the Board of Aldermen, shall have power to issue summons to such witnesses as he shall require in such hearings.

City Clerk.

SECT. 28. Any person failing to comply with the summons of the Mayor shall be punished by a fine not less than five dollars nor more than fifty dollars or by imprisonment not more than thirty days. The Municipal Court of the City of Portland shall have jurisdiction of such offenses.

SECT. 29. The City Clerk shall be clerk of the Board of Aldermen. He shall perform such duties as shall be prescribed by the Mayor and Aldermen and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in two or more of the papers printed in said city, of the time and place of ward meetings; the time of such meetings when not fixed by law, shall be determined by the Mayor and Board of Aldermen. In case of the temporary absence of the City Clerk, the Mayor with the consent of the Board of Aldermen may appoint a City Clerk *pro tempore*.

Police.

SECT. 30. The Board of Aldermen shall establish by ordinance a Police Department, consisting of a City Marshal, two Deputy Marshals, and of such subordinate officers and other members of the police force as it may prescribe. The power of appointment of said City Marshal, Deputy Marshals, subordinate officers and members of the police force shall be vested in the Mayor exclusively, subject to the provisions of an act entitled "An act regulating the appointment of the members of the police force of the City of Portland," approved March 4, 1885, and acts additional thereto and amendatory thereof, except so far as the same may be modified by this act.

The Mayor shall have power to remove all officers and members of the Police Department, except the City Marshal whom

he may remove at pleasure, for such cause as he shall deem sufficient, and shall assign in writing in his order for removal; and said order of removal shall be filed in the office of the City Clerk for the inspection of the public. The Deputy Marshals and all members of the permanent Police Force, except the City Marshal, shall hold office during good behavior, subject, however, to removal in the manner above provided. The Deputy Marshals shall be appointed by promotion from members of the permanent police force.

SECT. 31. The Fire Department shall be in the charge of a Fire Commissioner under such rules and regulations as the Board of Aldermen may by ordinance determine. Fire Department.

All present officers and members of the Fire Department shall continue to hold office for the full terms for which they were elected or appointed unless sooner removed as herein provided, and all future appointments of members of the Fire Department, the number of whom shall be determined by the Board of Aldermen, except as herein otherwise provided, shall be made by the Fire Commissioner from persons certified to him by the Police Examining Board, which shall hereafter be known as the Police and Fire Department Examining Board, in the same manner that persons are certified to the Mayor for appointment to the Police Force of the city of Portland under the provisions of the act aforesaid entitled, "An act regulating the appointment of members of the Police Force of the City of Portland," approved March 4, 1885, and acts additional thereto and amendatory thereof. All officers and members of the Fire Department appointed by the Fire Commissioner under this act shall hold the office to which they were appointed until removed by the Fire Commissioner for such cause as he shall deem sufficient and assign in writing in his order for removal, which order shall be filed with the City Clerk for public inspection.

SECT. 32. The Fire Commissioner shall have sole charge of a department, to be known as the Fire Department, and shall purchase and keep in repair all apparatus used therefor, including the fire alarm telegraph and telephone system; shall have and exer- Fire Commissioner.

cise all the powers and duties conferred by statute upon fire engineers, to be exercised by himself or by his subordinates as he may direct, shall appoint a Chief Engineer and not exceeding four Assistant Engineers and a City Electrician who shall be the superintendent of the fire alarm telegraph and telephone system, without their being certified by the Police and Fire Department Examining Board, and shall appoint all other firemen when certified as provided in the preceding section; shall perform such other duties and have such other powers not inconsistent herewith as the Board of Aldermen may prescribe.

Chief
Engineer.

SECT. 33. Said Chief Engineer shall direct the work of the members of the Fire Department in case of fire, act as the executive officer of said Fire Commissioner, and have authority, in case of fire, to establish fire limits in the neighborhood of the building or buildings in which a fire may have occurred and to prevent persons not authorized by him from coming within said limits.

SECT. 34. The Board of Aldermen shall annually appropriate such sums of money as it may deem necessary and sufficient to carry on the work of said Commissioner. Such appropriation shall be drawn from the city treasury in such manner as the Board of Aldermen may by ordinance direct.

Public Works.

SECT. 35. The Commissioner of Public Works shall perform the duties and have the powers prescribed in an act entitled "An act to establish a Commission of Public Works in the City of Portland," approved March 8, 1895.

Cemeteries
and Public
Grounds.

SECT. 36. The Commissioner of Cemeteries and Public Grounds shall have the power and perform the duties now vested in the Commissioners of Cemeteries and Public Grounds by an act entitled "An act to authorize the City of Portland to appoint Commissioners of Cemeteries and Public Grounds," approved March 5, 1885.

SECT. 37. No person or corporation shall dig, tear up, or excavate any portion of the surface of any street or sidewalk in said city unless authorized therefor, in writing, by the Commissioner of Public Works and subject to such conditions as he may impose, except by special order of the Board of Aldermen. All

powers heretofore conferred by any prior act of Legislature contrary to this section are hereby repealed.

SECT. 38. The Commissioner of Public Works may on such terms and conditions as he may think proper, subject, however, to such regulations as the Board of Aldermen may prescribe, authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, watercourse, or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes, provided that not more than one-half of the width of the street shall be so occupied. And such materials so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

SECT. 39. The Treasurer of the City of Portland shall also be the Collector for said city with all the powers of collectors of taxes under the laws of this state. He shall be styled Treasurer and Collector and shall give but one bond, said bond to be approved by the Mayor and Aldermen, for the faithful performance of his duties; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts, shall be subject to such rules and regulations as the Board of Aldermen may establish. Said Treasurer and Collector shall collect all uncollected taxes and assessments in whatever year assessed and at the expiration of said term his powers as Collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such Treasurer and Collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be

Treasurer and
Collector.

returned to his successor in office. These provisions shall apply in all respects to all uncollected taxes of said city.

Streets.

SECT. 40. The Board of Aldermen shall have authority to lay out, widen or otherwise alter, or discontinue any and all streets or public ways in the City of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the Commissioners of Portland Harbor. A Standing Committee of the Board of Aldermen shall be appointed, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceeding to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The Committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the City Clerk's office at least seven days previous to its acceptance by the City Council. The street or way shall not be altered or established until the report is accepted by the Board of Aldermen, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the Board of Aldermen except upon the report of said Committee. The Committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the City Clerk seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the Board of Aldermen in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal

therefrom to the Supreme Judicial Court which Court shall determine the same by a committee or reference under a rule of Court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the Supreme Judicial Court which shall first be holden in the county of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said Court. The appellants shall serve written notice of such appeal upon the Mayor or City Clerk, fourteen days at least before the session of the Court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the Court as in other cases. Cotenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the Committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, subject to an appeal as aforesaid, and in such cases, if an appeal has been regularly taken, the appellant in the original appeal shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the Board of Aldermen the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise until they decide to open and construct said street. The Board of Aldermen may regulate the height and width of sidewalks in any public square, places, streets, lanes, or alleys in said city; and may authorize posts and trees to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets.

Evergreen
Cemetery.

SECT. 41. The existing laws of the state relating to drains and sewers and sidewalks including those in the charter existing before the adoption of this act shall continue in force.¹

SECT. 42. The City of Portland may ordain reasonable by-laws and regulations for the government of Evergreen Cemetery, and shall have full power and authority to impose and enforce penalties for the breach thereof, and for the punishment of offenses committed in said Cemetery. All by-laws and regulations heretofore ordained by said City of Portland for the government of Evergreen Cemetery are, and shall be, valid and in force; and all penalties imposed under the same, and for the breach of the same, and for punishment of offenses committed in said Cemetery, shall be enforced.

SECT. 43. All acts and parts of acts inconsistent with this act are hereby repealed. Provided, however, the repeal of the said acts shall not affect any act done, or any act accruing, or accrued, or established, or any suit or proceeding had or commenced in any civil or criminal case before the time when such repeal shall take effect, and that no offense committed, and no penalty or forfeiture incurred, under the acts hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal. And provided, also, that all persons who, at the time the said repeal shall take effect, shall hold any office under the said acts or ordinances of the city shall continue to hold the same until others are elected and qualified in their stead as provided in this act. And provided, also, that all acts of Legislature relating to the City of Portland and the ordinances, rules and regulations of the City of Portland, which shall be in force at the time when the said repeal shall take effect, and not inconsistent with this act, shall continue in force until the same are repealed. No act which has been heretofore repealed shall be revived by the repeal of the above acts.

¹ These laws are omitted from this draft on account of their length, but it may be deemed advisable to incorporate them in the draft to be presented to the Legislature.

SECT. 44. This act shall be void unless the inhabitants of the City of Portland, at legal ward meetings called for that purpose, by a written vote, determine to adopt the same; and the qualified voters of the city shall be called upon to give in their votes upon the acceptance of this act, at meetings in the several wards, duly called by the Mayor and Aldermen, to be held on the day of the next municipal election, those favoring the adoption thereof voting *yes*, and those opposed voting, *no*; and thereupon the same proceedings shall be had respecting the sorting, counting, declaring, and recording the returns of said votes as is herein provided at the election of Mayor; and the Board of Mayor and Aldermen shall within three days meet together and compare the returns of the ward officers; and if it appear that a majority of all the votes given on the question of its acceptance, are in favor thereof, the Mayor shall forthwith make proclamation of the fact, and thereupon this act shall take effect. And in case this act is so adopted and takes effect, the terms of office of all city officers shall expire on the appointment or election and qualification of their successors as provided in this act.



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